

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Falconnier, et al.

Serial No.: 09/423,665

Filed: November 22, 1999

Via Facsimile: 703-305-3602

Group Art Unit: 1761

Examiner: C. Scherrer

**OFFICIAL**

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL AND  
CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

TRANSMITTAL

Commissioner of Patents  
Washington, D.C. 20231

Sir:

Transmitted herewith via facsimile is Request for New Action and to Restart Period for Response  
in the above-captioned application..

**FAX RECEIVED**

OCT 23 2001

GROUP 1700

Respectfully submitted,

JACOBSON HOELMAN PLLC

By:

  
William E. Player

Reg. No. 31,409

400 Seventh Street, N.W.  
Washington, D.C. 20004  
Tel. No.: 202-638-6666  
Atty. Dkt. No. P64053US0  
Date: October 23, 2001  
WEPId

R:\HOME\VBYERS\2001\October\P64053tm.wpd

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Falconnier, et al.

Group Art Unit: 1761

Serial No.: 09/423,665

Examiner: C. Scherrer

Filed: November 22, 1999

For: NOVEL CLEAR BEVERAGE OPTIONALLY ALCOHOLIC CONTAINING ANETHOL AND  
CLOUDY DILUTED BEVERAGE OBTAINED BY DILUTION

**REQUEST FOR NEW ACTION AND TO RESTART PERIOD FOR RESPONSE**

Commissioner of Patents  
Washington, D.C. 20231

Sir:

Applicants respectfully request that the PTO mail a new action in place of the Office Action mailed July 23, 2001 (the "Office Action"), which new action restarts the time period for response. This request is made because, as detailed below, the Office action is defective because the reason for making the rejection under §112, ¶1, for alleged lack of descriptive support (the "new-matter rejection"), is missing from the statement of rejection.

At page 3 of the Office Action, the new-matter rejection ends with an incomplete sentence,

i.e.:

Applicants have amended the claims to include the terms "

The claim "terms" missing from the statement of rejection comprise the subject matter of the claims allegedly constituting new matter, i.e., the reason for the new-matter rejection.

Since the reason for the new-matter rejection, i.e., the alleged new matter, is missing from

the statement of rejection, Applicants cannot formulate a response to the new-matter rejection.  
"Where a claim is refused for any reason . . . it should be 'rejected' and *the ground of rejection fully and clearly stated.*" MPEP 707.02(d) (*emphasis added*).

The missing reason for the new-matter rejection represents a "defect" in the instant Office Action, which requires correction by the PTO mailing a new Office Action, which corrects the defect and restarts the time period for response. MPEP § 710.06.

Favorable action is requested.

Respectfully submitted,  
JACOBSON·HOLMAN PLLC

By:

  
William E. Player  
Reg. No. 31,409

Date: October 23, 2001

The Jenifer Building  
400 Seventh Street, NW  
Washington, D.C. 20004-2201  
Telephone: (202) 638-6666  
Atty. Docket: P64053US0  
Date: October 23, 2001  
WEP/